

# **Board of Contract Appeals**

General Services Administration  
Washington, D.C. 20405

---

January 13, 2005

---

GSBCA 16533-RELO

In the Matter of DONALD W. OWENS

Donald W. Owens, Duncan, OK, Claimant.

Sharon Robison Hill, Chief, General Law Division, United States Army Aviation and Missile Command, Department of the Army, Redstone Arsenal, AL, appearing for Department of Defense.

**PARKER**, Board Judge.

## Background

In October 1998, Donald W. Owens, a civilian employee of the Department of the Air Force, was transferred from Plant City, Florida, to Vilseck, Germany. According to Mr. Owens, at the time of his transfer to Vilseck, Mr. Owens' supervisor told him that his position in Plant City was to be abolished and, therefore, Mr. Owens would not have the right to a transfer back to Plant City at the conclusion of his overseas tour of duty. Mr. Owens then decided to put his house in Plant City up for sale, eventually selling it in May 1999.

Mr. Owens was transferred from Vilseck to Ft. Sill, Oklahoma, in August 2003. On May 20, 2004, he filed a claim in the amount of \$16,483.71 for reimbursement of the real estate expenses he incurred in connection with the sale of his home in Plant City. The Air Force denied the claim, and Mr. Owens has asked the Board to review the agency's decision.

## Discussion

The Air Force correctly declined to reimburse Mr. Owens. The controlling federal statute provides that when an agency transfers an employee from a duty station within the United States to a duty station outside the United States and then back to the United States, the agency can reimburse the employee for the expenses of selling a house at the first duty station in the United States only if the sale occurs after the employee receives official notification that he will not return to that duty station. 5 U.S.C. §§ 5724a(d)(2), (3) (2000). The Joint Travel Regulations (JTR) are consistent with the statute. JTR C14000-C, -D (Aug. 1, 2003). We have discussed these statutory and regulatory requirements many times

and applied them to employees whose circumstances were similar to those of Mr. Owens. E.g., Edward J. Nanartowich, GSBCA 15237-RELO, 01-1 BCA ¶ 31,290 (citing cases).

The Department of Defense (DoD) is not authorized to reimburse Mr. Owens for the expenses he incurred when he sold his house in Plant City because Mr. Owens sold the house before he received official notification that he would not return to Plant City. According to JTR C14000-C.4 and -D.2, such official notification usually takes the form of permanent change of station orders. When Mr. Owens sold his house in Plant City, DoD had not issued any permanent change of station orders telling him that he would not return there. Although Mr. Owens' supervisor told Mr. Owens that he did not have return rights to Plant City, the lack of return rights does not constitute official notification that the employee will not return to his former duty station because there is still a chance that the employee will return there at the conclusion of the overseas tour of duty. Mark H. Swenson, GSBCA 15504-RELO, 01-1 BCA ¶ 31,410 (citing cases). When Mr. Owens sold his house, DoD had not told him where he might be posted after Vilseck, much less provided him with official notification that he would not return to Plant City. Thus, according to the statute and its implementing regulations, DoD has no authority to reimburse Mr. Owens for his real estate transaction expenses.

### Decision

The claim is denied.

---

ROBERT W. PARKER  
Board Judge